

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

ASHTON PRATT PENINGTON (6)

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Case No. 4:02cr100
(Judge Schell)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on July 27, 2009, to determine whether Defendant violated his supervised release. Defendant was represented by Michael Hawk. The Government was represented by Ernest Gonzalez.

On July 30, 2003, Defendant was sentenced by the Honorable Paul Brown to forty-two (42) months' custody followed by five (5) years of supervised release for the offense of Conspiracy to Possess Narcotics. On November 2, 2005, Defendant completed his period of imprisonment and began service of his supervised term.

On June 10, 2009, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall not unlawfully possess a controlled substance. The petition also alleged violations of the following standard conditions: (1) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; (2) the defendant shall report to the probation officer as directed by the Court or probation officer and shall

submit a truthful and complete written report within the first five days of each month; and (3) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following acts: (1) On March 4, 2009, following a plea of guilty, defendant was sentenced in Dallas County Criminal District Court #2 to a term of three (3) years deferred adjudication probation for the offense of Unlawful Obtaining from a Legally Registered Pharmacist, a Controlled Substance, Norco, a 3rd degree felony; that defendant failed to submit a written monthly report within the first five days of the months of January 2008, through September 2008, November 2008, December 2008, and March 2009; and (3) the defendant failed to notify the U.S. Probation Officer within seventy-two hours of his arrest by the University Park Police Department on June 3, 2008.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit. Defendant shall surrender for service of his sentence on August 10, 2009.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

SIGNED this 29th day of July, 2009.

A handwritten signature in black ink, reading "Amos Mazzant". The signature is written in a cursive style with a horizontal line underneath the name.

AMOS L. MAZZANT
UNITED STATES MAGISTRATE JUDGE